

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTSFILED
CLERKS OFFICE
2005 OCT 20 10 46 7 RWZ
#1:05-CV-10467
DISTRICT COURT
DISTRICT OF MASS.

VERDIEU BERNARD

VS.

DEPARTMENT OF HOMELAND SECURITY

MOTION TO RE-OPEN FOR THE SOLE PURPOSE OF TRANSFER OF THIS ACTION TO THE UNITED STATES COURT OF APPEALS, FIRST CIRCUIT, BOSTON, MASSACHUSETTS

Now comes the petitioner Verdieu Bernard and hereby moves to re-open this matter and transfer this action to the appropriate circuit court of appeals which petitioner asserts is the First Circuit, United States Court of Appeals, located in Boston, Massachusetts. The basis of this assertion is that the petitioner resides in Massachusetts and has resided in Massachusetts since immigration proceedings began and all immigration proceedings prior to the time of his appeal took place in Boston. Petitioner further asserts that the Department of Homeland Security is the proper party defendant as petitioner is not in the physical custody of any facility, which precludes the traditional practice of naming a county sheriff as party defendant.

VERDIEU BERNARD,

By his attorney,

John Kimmethorn

929 Massachusetts Avenue, Cambridge, MA 02139

(617) 552-2522, 200 # E17235

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

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U.S. DISTRICT COURT
DISTRICT OF MASS.

VERDIEU BECNARD

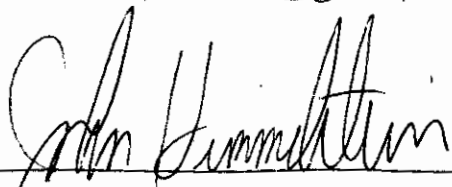
VS.

DEPARTMENT OF HOMELAND SECURITY

CERTIFICATE OF COMPLIANCE WITH COURT ORDER

Undersigned counsel hereby certifies that he has complied with the order of Rya W. Zobel by filing a Motion to Re-open for the sole purpose of transfer of this action to the United States Court of Appeals, First Circuit, Boston, Massachusetts and by mailing copies of all pleadings and orders in this case to the petitioner by express mail, return receipt requested, express mail tracking number EQ270423735US, said express mail sent on October 20, 2005.

SUBSCRIBED AND SWORN UNDER THE PAINS AND PENALTIES OF PERJURY THIS 20 DAY OF OCTOBER, 2005.


JOHN HIMMELSTEIN, ESQ.